IN THE HIGH COURT OF JUDICATURE OF BOMBAY

CIVIL APPELLATE JURISDICTION

CIVIL REVISION APPLICATION NO.77 OF 2006

Anna Bhau Houje, since deceased per L.Rs. ..Applicants.

V/s.

Anna Appa Chougule & ors. ..Respondents.

Mr.Anilkumar Patil for applicants.

CORAM: A.M.KHANWILKAR,J

DATE : APRIL 25, 2006.

P.C. :

1. Heard counsel for the applicants.

2. I see no reason to depart from the conclusion reached by the court below in exercising the discretion in favour of the respondents for condoning delay and setting aside abatement. The argument that the concerned advocate had died in the year 2003 and no explanation is forthcoming as to why steps were not taken till then, though attractive, does not commend to me. If the said advocate is not available, it is not possible for the respondents to give any justification for the lapse committed by that advocate. It is well settled that for the mistake of advocate, litigant should not suffer. Even on that reasoning the discretionary power

exercised by the lower court in condoning delay and setting aside abatement needs no interference in exercise of revisional jurisdiction. Hence dismissed.